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MONTANA PROSECUTOR

JANUARY/1983 VOL. 7, NO. 1

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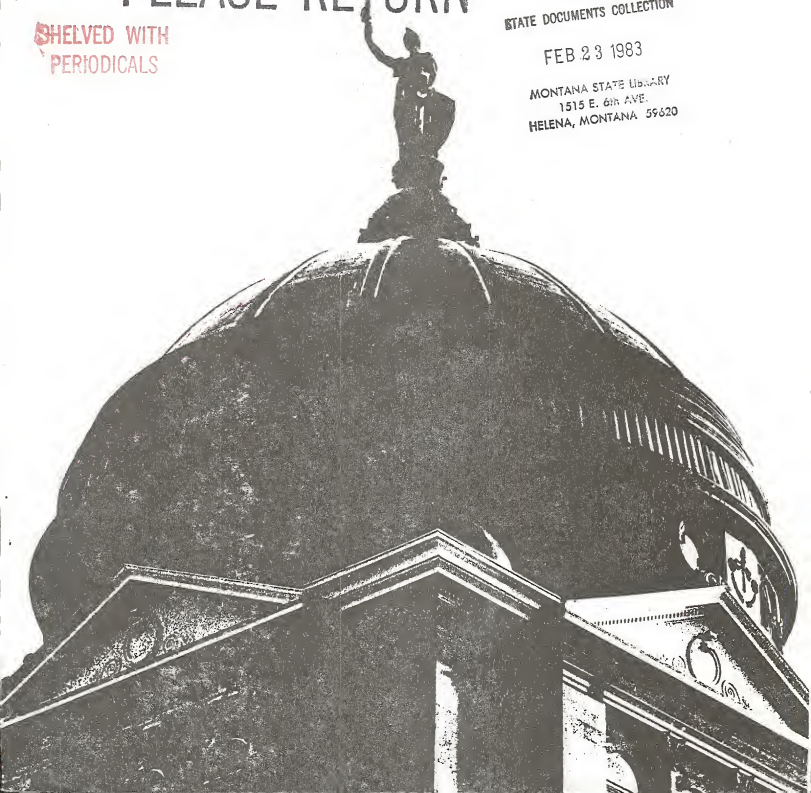


INTRODUCTORY NOTES

MASTER CALENDAR - A copy of the NCDA master calendar of programs for prosecutors is enclosed.

NDAA - Also enclosed is a copy of the NDAA State Director's report of the NDAA Fall Board meeting.

LEGISLATURE - Weekly updates and interim reports on specific bills that impact the office of county attorney as well as legislative directories have been forwarded to all county attorneys. If you have any comments or questions concerning pending legislation, contact Marc Racicot or Mary Kay Burgess at 449-3816.

PROSECUTOR MANUAL - It is presently being put together, albiet rather slowly since the legislature convened. Nonetheless, a draft should hopefully be assembled by late Spring. If you have any advice you would like to impart, don't hesitate.

SPRING MEETING - A training session and/or newly enacted legislation conference is being planned for late Spring - to be announced.

PROSECUTOR'S MOTTO: Sometimes we start out slow - and then peter out.

RECENT CASES AND NOTES

PROSECUTING ATTORNEY - DISCRETION - DIVERSION PROGRAMS

A prosecutor may validly promulgate and apply a blanket rule against admitting certain classes of defendants to pretrial diversion programs. In this case, the policy was applied to persons charged with welfare fraud. Just as a prosecutor has complete discretion in deciding whether to prosecute, pretrial diversion "does not divest the state attorney of the right to institute proceedings if the conditions are not met." The Court stressed that the diversion statute "requires consent of the administrator of the program, victim, judge, and state attorney, but fails to provide for any form of review. In addition, [the statute] allows the state attorney to continue prosecution if defendant is not fulfilling his obligations under the program or if the public interest requires. The fact that the state attorney has this discretion to reinstate prosecution is consistent with the view that the pretrial diversion consent by the state attorney is a prosecutorial function." Cleveland v. State, 417 So.2d 653 (Fla., 1982)

TRIAL JUDGE - PRIVATE CONVERSATIONS WITH JUROR

Private conversations between a juror at a state murder trial and the presiding judge required reversal of the defendant's conviction, without reference to the possible harmlessness of the error. The conversations related to the juror's belief that a friend of hers had been the victim of a separate murder referred to by one of the defense witnesses. After the juror assured the judge that she could still render an impartial verdict, the judge allowed her to stay in the case and did not inform either the defendant or his attrney about the conversation. This failure to inform either the defendant or his counsel violated the defendant's constitutional rights to counsel and to be present at a critical stage of the trial, and the violation of the right to counsel required automatic reversal of the conviction. Spain v. Rushen, 543 F.Supp. 757 (Cal., 1982).

STOP AND FRISK - FRISK OF SUSPECT DURING SEARCH OF HIS HOME PURSUANT TO WARRANT

A search warrant for a suspect's home did not automatically give police the right to frisk the suspect himself. In the instant case the police lacked a reasonable suspicion that the suspect was armed and presently dangerous. The Court relied on Ybarra v. Illinois, 444 U.S. 85 (1979), for the proposition that a person's mere presence at the scene of a search does not permit a police frisk. There must be a particularized suspicion with respect to the individual. U.S. v. Ward, 682 F.2d 876 (10th Cir., 1982).

WARRANTLESS ARREST - MISDEMEANORS - HOME ENTRY - PAYTON V. NEW YORK

It has been held that police armed with a bench warrant issued on an unrelated misdemeanor charge may enter a defendant's dwelling to search for him and, in his absence, legally seize the evidence used at his trial for bank robbery. Although the outstanding bench warrant "did not amount to a judicial finding of probable cause to arrest in the traditional sense - with respect to the bank robberies (i.e., that a crime had been committed and that defendant had committed it) [nevertheless], the police, armed with the warrant, had authority to find and seize Spencer anywhere they could find him for his failure to appear in court. Thus, the presence of the police in the defendant's room was pursuant to a direction made by a neutral magistrate. Defendant's rights under the Fourth Amendment require no more." The Court noted that the police had reason to believe the defendant was inside when they entered. The Court rejected the argument that Payton v. New York, 445 U.S. 573 (1980), only applies to felony arrests. "Defendant seems to argue that we should grant a misdemeanor suspect blanket protection from arrest while such a person remains at home. *** [T]his defendant, subject to the outstanding bench warrant, is not insulated by Payton from being arrested in his home, as long as the police had reason to believe he was there." U.S. v. Spencer, 684 F.2d 220 (2nd Cir., 1982).

SEARCH - WHAT CONSTITUTES - DRUG SNIFFING DOGS

Rejecting U.S. v. Beale, 674 F.2d 1327 (9th Cir., 1982) the Supreme Court of Hawaii has adopted the majority rule that a person has no expectation of privacy in the air space surrounding closed containers. The Court stressed, however, that its decision is not "a carte blanche sanctioning of all uses" of narcotics detecting dogs. Instead, "the legality of the use of narcotics-sniffing dogs will depend on the circumstances of the particular case. This court will not condone the use of these dogs in general exploratory searches or for indiscriminate dragnet-type searches. ***Furthermore, as a constitutional minimum, we will require that the dog and its handlers be fully qualified. ***We wish to make clear that a positive alert by a narcotics-sniffing dog does not obviate the need for a search warrant." State v. Groves, 649 P.2d 366 (Hawaii, 1982).

WARRANTLESS SEARCH - AUTOMOBILES - PROBABLE CAUSE - HAND-ROLLED CIGARETTE BUTT IN ASH TRAY

The sighting of a handrolled cigarette butt in the open ash tray of an automobile gave a police officer probable cause to search the vehicle for contraband. A number of factors, including the officer's experience and expertise in drug enforcement, the suspect's unusual behavior in sorting through the ash tray's contents, the fact that the suspect's companion fled when the plainclothes officer identified himself, and the high percentage of drug arrests in the area, combined with the observation of the cigarette butt to create probable cause. None of the factors alone would have been enough to create probable cause for believing that the observed cigarette was marijuana, but taken together they were sufficient. U.S. v. McCarthy, 448 A.2d 267 (D.C., 1982).

SEARCH INCIDENT TO ARREST - BRIEFCASE - N.Y. V. BELTON

It has been held that the police may seize and search a briefcase or other container held by an arrested person as an incident to the arrest. The Court interpreted New York v. Belton, 453 U.S. 454 (1981), as rejecting the notion that the search-incident doctrine is not applicable when the arrestee has no possible access to the searched object. Thus, the doctrine was applicable to the instant search, even though the arrestee was in custody and his briefcase was in the possession of the police. People v. Smith, 453 N.Y.S.2d 226, (N.Y. App., 1982).

INVENTORY SEARCHES - WALLET - DUAL PURPOSE

An otherwise valid inventory search does not become constitutional merely because the officers who conducted it were looking for evidence as well as pursuing the normal interests that have been held to justify inventories. The Court declined to suppress evidence found in two wallets pursuant to a warrantless inventory search conducted when the wallet's owners were taken into custody at the county jail. Even if the search were conducted for the dual purpose of taking an inventory and looking for evidence, the resulting seizure was not unreasonable. There was no indication in this case that inventorying the wallets of arrested persons was not a standard jailhouse procedure, and suppression was not required merely because someone was present who recognized the relevance of the wallet's contents to the arrests. State v. Lind, 322 N.W.2d 826, (N.D., 1982).

VEHICULAR HOMICIDE - FETUS

The Supreme Court of Rhode Island has held that a fetus is not a "person" under the State's vehicular-homicide statute. At common law there could be no criminal conviction for homicide unless the fetus was "born alive." The fact that the legislature has specifically referred to unborn children in

VEHICULAR HOMICIDE - FETUS (CONT.)

two state statutes but not in the vehicular-homicide statute strongly supported the conclusion that it did not intend to change the common law meaning of the term "person" in that statute. It was only by legislative action that an unborn child could acquire the status and protection of criminal statutes which was thus far denied by common law and rules of statutory interpretation. State v. Amaro, 448 A.2d 1257, (R.I., 1982).

MIRANDA - CUSTODY AND INTERROGATION - DETENTION AT SCENE OF SEARCH

Although it was permissible to detain three defendants for 45 minutes during a warrant authorized search of the premises on which they were found, questions put to them during the detention period were illegal. The questioning, which was not preceded by Miranda warnings, went beyond the gathering of routine background information, and the defendants, although not under formal arrest, were in "custody." The Court distinguished Michigan v. Summers, 452 U.S. 692 (1981), in which the U.S. Supreme Court held that a valid warrant to search premises for contraband implicitly authorized police officers to detain the occupants while a proper search was conducted. Unlike Summers, the challenged evidence in this case consisted of statements given before the defendants were arrested. The Court also found that the agent's questions amounted to interrogation, not just the gathering of background information such as names and addresses. In particular, the agent asked the defendants what they were doing on the premises. The Court also concluded that the detention was "custodial" in nature, in part because the agent implied that he would not let the defendants go until he had interviewed them. U.S. v. Stevens, 543 F.Supp. 929 (Ill., 1982).

IDENTIFICATION EVIDENCE - LINGUISTIC ANALYSIS - ADMISSIBILITY

The method of handwriting analysis called "linguistic analysis," which compares similarities and dissimilarities in syntax, spelling, and paragraphing styles, had been found to be insufficiently trustworthy and reliable to be admitted at trial. Unlike fingerprint and ballistics identification, this new method uses subjective judgments and speculation that might mislead the jury. Such evidence was ruled inadmissible, even with the aid of expert testimony. The Court noted that linguistic analysis is not based on what the scientific community considers unique characteristics and stated that its potential for misleading the jury outweighed any probative value it might have. U.S. v. Clifford, 543 F.Supp. 424, (Pa., 1982).

JURY - ALTERNATIVES - SUBSTITUTION DURING DELIBERATIONS

Where no statute or rule expressly authorizes a trial court to substitute an alternate juror during jury deliberations for a juror who has been discharged, the trial court commits error in making the substitution and the error constitutes ground for reversal. "Until there is express authorization permitting a circuit court to substitute an alternate juror during jury deliberations, the circuit court has only three options available to it if a regular juror is discharged after jury deliberations have begun: first, to obtain a stipulation by the parties to proceed with fewer than twelve jurors; second, to obtain a stipulation by the parties to substitute a juror; and third, to declare a mistrial." State v. Lehman, 321 N.W.2d 212 (Wis., 1982).

DEFENDANT AS WITNESS - USE OF ILLEGALLY OBTAINED INCONSISTENT STATEMENTS TO REBUT INSANITY CLAIM

It has been held that while statements that are secured from a defendant in violation of constitutional safeguards are admissible for impeachment under the rationale of Harris v. New York, 401 U.S. 222 (1971), they cannot be used to help the State rebut the defendant's insanity claim. A police detective testified at the defendant's trial that during an interrogation session, subsequently held to be illegal, the defendant implicated a friend in the commission of the crimes. The State presented an expert witness who testified, in rebuttal, that neither this blame shifting nor the defendant's behavior during the interrogation were what would have been expected of one who truly suffered from the delusions described by the defendant. The Court held that it was permissible for the prosecution both to ask the defendant about the interrogation in order to impeach his credibility and to call the interrogating detective as a witness, but the psychiatric expert's testimony went far beyond impeachment. The defendant's allegedly inconsistent statements were used to overcome the insanity defense, an issue upon which the State had the burden of proof. Therefore, the statements became part of the State's case. People v. Ricco, 437 N.E.2d 1097 (N.Y., 1982).

"A JURY OF YOUR PEERS"
THE BOOK OF PHRASES
B.C.
TWELVE GUYS WHOSE STATUS HAS SUDDENLY BEEN REDUCED TO THAT OF A HOMICIDAL MANIAC.
THE BOOK OF PHRASES

PROSECUTING ATTORNEY - ABSOLUTE IMMUNITY - INVESTIGATIVE ACTIVITIES

It has been held that the doctrine of absolute immunity precludes civil suits for damages arising from investigations conducted by the prosecutor in an allegedly tortious manner if the investigation is necessary to the prosecutor's decision to initiate or prepare for a criminal prosecution. In the instant case the prosecutor ordered an investigation after an informer stated that a man who had sat on a criminal jury had, contrary to his representations on voir dire, a prior felony conviction. The investigation led to a perjury complaint, which was dismissed when the juror showed that he had been discharged and his citizenship restored. The juror sued the prosecutor, claiming, among other things, negligence in the hiring and supervision of the investigator and negligence in the investigation itself. The Court noted that the prosecutorial absolute immunity doctrine articulated in Imbler v. Pachtman, 424 U.S. 409 (1976) has been held to cover a wide variety of duties. An examination of the objectives of absolute immunity - allowing the prosecutor to work free of harrassment and relieving him of anxiety that might affect his judgment - convinced the Court that a broad reading of "judicial" was appropriate. In this case, the investigation was necessary to the decision whether or not to prosecute, and therefore its alleged inadequacy provided no basis for a suit against the prosecutor. Blake v. Rupe, 651 P.2d 1096, Wyo., (1982).

MIRANDA - CUSTODY - HANDCUFFED DETAINEES

Merely because two bank robbery suspects were handcuffed during an investigatory stop did not turn the confrontation into an arrest nor mandate that Miranda warnings precede interrogation at that point. The Court found that the use of the handcuffs was reasonable under the circumstances. They were put on when one of the two investigating officers left the scene momentarily to interview a witness. It was reasonable for the remaining officer to take adequate measures to protect himself from the suspects, who were extremely nervous and looked like they might flee at any minute. Even when the other officer returned, the continued use of the handcuffs remained reasonable. It eliminated the possibility of an assault or an escape attempt aided by a third suspect who was still at large. The handcuffs also did not change the usual rule that Miranda warnings are not required during investigatory stops. The protective use of the handcuffs fell short of creating the sort of "police dominated and compelling" atmosphere in which Miranda warnings must be given. The Court also concluded that the officers' separate questioning of the two suspects for up to 12 minutes did not affect the legality of their warrantless, unwarned interrogation. U.S. v. Bautista, ___ F.2d ___, 31 CrL 2499, 9th Cir., (1982).

MIRANDA - INTERROGATION - INVESTIGATORY STOP AT GUNPOINT

This Court held that the use of a weapon in making an investigatory stop did not automatically turn the situation into an "interrogation." Thus, a suspect's otherwise spontaneous utterance was not rendered inadmissible simply because it was made at gunpoint. "Were we to hold otherwise, the ordinary act of apprehension by the police would be transformed into latent questioning and any utterance made by an accused at such time would be suppressible regardless of how spontaneous and unprovoked it was . . ." People v. Brooks, 453 N.Y. S.2d 740, N.Y. App., (1982).

MIRANDA - WAIVER - FAILURE TO TELL SUSPECT OF ATTORNEY'S ATTEMPT TO CONTACT HIM

It has been held that an attorney's efforts to consult with a suspect he has been hired or retained to represent must be communicated to the suspect. The Court held that if officials, prior to or during custodial interrogation, refuse the attorney access to the suspect and fail to tell the suspect about the attorney's presence and willingness to consult with him, the suspect cannot knowingly waive his right to counsel. Here, the attorney arrived at the jail and spoke to the jailer one day before the defendant, then a murder suspect, gave his first incriminating statement. The jailer turned the attorney away on the ground that the defendant was undergoing heroin withdrawl. The attorney wrote on one of her business cards that she was a partner of another lawyer who had met with the defendant and a codefendant and had agreed to represent them and that the suspect should not make a statement without one of his lawyers being present. The jailer agreed to give the card to the defendant but did not tell him that the attorney had tried to see him. The Court found the defendant's waiver of Miranda rights invalid. People v. Smith, ___ N.E.2d ___, 32 CrL 2045, Ill., (1982).

MIRANDA - WAIVER - FAILURE TO TELL SUSPECT OF ATTORNEY'S OFFER TO COUNSEL HIM

Failure of the police to inform a murder suspect in custody that an attorney had offered to counsel him if he were questioned did not render the suspect's subsequent waiver of his rights to counsel and to remain silent invalid. Miranda requires that the right to remain silent and the right to counsel be asserted by the defendant, where as the attorney in this case was contacted through the efforts of the suspect's sister. The Court refused to adopt the New York rule that a defendant's right to counsel attaches when an attorney communicates with the police for the purpose of representing him and that this right cannot be waived in the absence of counsel. There was no attorney-client relationship between the lawyer and the defendant. Additionally, merely informing the suspect of the attorney's call would not have significantly added to the amount of information needed by him to make an informed decision regarding waiver of his rights. State v. Burbine, 451 A.2d 22, R.I., (1982).

MIRANDA - INTERROGATION - PROBATION OFFICERS

Two Courts have split on the issue of whether probation officers must give Miranda warnings. In Alspach v. State, 440 N.E.2d 502, Ind. App. (1982), the Court held that a probation officer need not give a probationer Miranda warnings when, following the filing of a petition to revoke probation, he questioned the probationer about the alleged violation. When the interview in the instant case took place, the probationer was not "in custody"; moreover, the probation officer was discharging his statutory duty to "supervise and assist" the probationer and was therefore acting "as an arm of the court ***, not as a governmental agent or police officer ***." However, "[b]ecause potential Fifth Amendment rights against self-incrimination are here involved," the Court carefully limited its holding: "Miranda warnings need not be given by probation officers legitimately engaged in the supervision of probationers when a) the probationer is not in custody, b) the interrogation is reasonably related to the officer's duty to supervise the probationer, and, c) the questioning is reasonable under all the circumstances, including the length of time and hour of the day or night it is conducted, the manner in which it is conducted, the persons present during questioning, and the place where it is conducted."

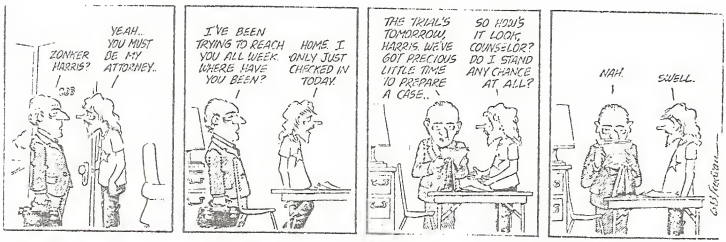
In the second case, State v. Murphy, 324 N.W.2d 340, Minn., (1982), the Court held that where the probation officer had good reason to believe that the probationer's answers would incriminate him, and the defendant was required to meet with the officer and answer her questions, the probation officer should have warned the probationer of his Fifth Amendment privilege. The Court reasoned that "[a]lthough defendant was not in custody in the usual sense, his freedom of action was considerably restricted at the time of the questioning. *** In this case the examination occurred in the agent's office. Defendant was there at her request but, unlike the defendant in Oregon v. Mathiason, 429 U.S. 492 (1977), who voluntarily went to the station to talk with the police at their request, defendant was there under legal compulsion since it had been made clear to him in the past that it was a condition of his probation that he meet with the agent when requested. It was also a condition of defendant's probation that he respond truthfully to the agent's questions. Failure to meet with her or to be truthful with her could have constituted a violation of the terms of probation. Also, the questioning was not just general questioning but questioning by a government agent who had 'substantial reason to believe that the requested disclosures [were] likely to be incriminating' ***."

EVIDENCE OF REQUEST FOR COUNSEL - INSANITY DEFENSE

Testimony by a police officer that a defendant, while undergoing questioning 30 hours after a murder was committed, asked to see an attorney, was held to be admissible on the issue of whether the defendant was sane when he killed the victim. Since the defendant raised the insanity defense, the State was permitted to show that he was sufficiently lucid to ask for a lawyer. The State's interest outweighed the slight inhibiting effect that this testimony would have on the constitutional right of silence. Sulie v. Duckworth, 689 F.2d 128, (7th Cir., 1982).

EXPERT WITNESS - RAPE TRAUMA SYNDROME - ADMISSIBILITY

Admission of testimony of a counselor at a rape trial who, in the course of her work with sexual assault victims, interviewed and counseled the prosecutrix, was reversible error. Part of the counselor's testimony consisted of a description of typical post-rape symptoms and behavior of rape victims - the so-called "rape trauma syndrome." "On the facts of the case before us, such testimony is of no help to the jury and produces an extreme danger of unfair prejudice. The factual question to be decided by the jury is whether the alleged criminal conduct occurred. It is not necessary that Fuller [the victim] react in a typical manner to the incident. Fuller need not display the typical post-rape symptoms and behavior of rape victims to convince the jury that her view of the facts is the truth." Additionally, the Court stated: "Rape trauma syndrome is not the type of scientific evidence that accurately and reliably determines whether a rape has occurred," and "[t]he scientific evolution of rape trauma syndrome has not yet reached the level of reliability that surpasses the quality of common sense evaluation present in jury deliberations. ***Permitting a person in the role of an expert to suggest that because the complainant exhibits some of the symptoms of rape trauma syndrome, the complainant was therefore raped, unfairly prejudices the appellant by creating an aura of special reliability and trustworthiness." State v. Saldana, 324 N.W.2d 227, (Minn., 1982). See also, State v. McGee, 324 N.W.2d 232, (Minn., 1982).


YEAH.. YOU MUST BE MY ATTORNEY..
ZONKER HARRIS?
I'VE BEEN TRYING TO REACH YOU ALL WEEK. WHERE HAVE YOU BEEN?
HOME. I ONLY JUST CHECKED IN TODAY.
THE TRIAL'S TOMORROW, HARRIS. WE'VE GOT PRECIOUS LITTLE TIME TO PREPARE A CASE..
SO HOW'S IT LOOK, COUNSELOR? DO I STAND ANY CHANCE AT ALL?
NAH.
SWELL.

NEGLIGENCE - POLICE DUTY TO WARN POTENTIAL CRIME VICTIM

Where police officers were staking out a laundromat that had been the scene of several recent stabbings, they had no duty to warn a customer inside when they spotted a likely suspect. In order for such a duty to arise, a "special relationship" would have had to exist between the police and the potential victim. The Court held that no such relationship existed on these facts, and thus the customer, who was indeed stabbed by the suspect, could not hold the police liable on a negligence theory. "[T]he peril to Yolanda was not created by the officers * * * She was unaware of their presence and did not rely on them for protection. Their conduct did not change the risk which would have existed in their absence: There is simply no reason to speculate that anyone - Yolanda or Blackman, victim or assailant - would have acted differently had the officers not placed the laundromat under surveillance. *** Imposition of [liability] premised on the theory that she was a potential victim of a potential assailant, necessarily implies a general duty to warn other potential victims in the vicinity. * * * While under some circumstances the police may conclude that such a course of conduct is prudent and necessary, our past decisions teach that it is inappropriate to impose such a duty - which may paralyze a neighborhood - under pain of tort liability." Davidson v. City of Westminster, ___ P.2d ___, 31 CrL 2535, (Cal., 1982).

NATIONAL COLLEGE OF DISTRICT ATTORNEYS

MASTER CALENDAR OF PROGRAMS FOR PROSECUTORS

FEBRUARY 1983

8 - 12	OFFICE ADMINISTRATOR COURSE (NCDA)	ATLANTA, GEORGIA
10 - 11	Maryland State's Attorneys Association Special Board Meeting and Orientation for Newly Elected State's Attorneys	Port Deposit, Maryland
14 - 16	Texas District & County Attorneys Association Property Crimes Seminar	Austin, Texas
16 - 17	Texas Prosecutor Council Offense Report Writing Workshop	Del Rio, Texas
17 - 19	Louisiana District Attorneys Association Assistant District Attorneys/Investigators Joint Training Session	New Orleans, Louisiana
18	New Jersey Division of Criminal Justice Forensic Science Seminar for Assistant Prosecutors	Sea Girt, New Jersey
20 - 24	National District Attorneys Association and National Council of Juvenile and Family Court Judges - Tenth National Conference on Juvenile Justice	Hilton Head, South Carolina
22 - 26	EXPERIENCED PROSECUTOR COURSE (NCDA)	MYRTLE BEACH, SOUTH CAROLINA
	Pennsylvania District Attorneys Association Mid-Winter Meeting	Philadelphia, Pennsylvania
	California District Attorneys Association Advanced Prosecutor College New Prosecutors College	San Bernardino, California Anaheim, California

MARCH 1983

2 - 4	Kansas County & District Attorneys Association Attorney General's Call	Lawrence, Kansas
6 - 10	INVESTIGATION AND PROSECUTION--THE PROSECUTOR'S DUAL ROLE (NCDA)	WASHINGTON, D.C.

MARCH 1983

6 - 9	PROSECUTION OF THE VIOLENT JUVENILE OFFENDER (NCDA)	RENO, NEVADA
6 - 11	National District Attorneys Association Mid-Winter Conference	Reno, Nevada
11	New Jersey Division of Criminal Justice Forensic Science Seminar for Assistant Prosecutors	Sea Girt, New Jersey
16 - 17	Texas Prosecutor Council Offense Report Writing Workshop	Fort Stockton, Texas
24 - 25	Washington Association of Prosecuting Attorneys Spring Meeting	Olympia, Washington
24 - 25	Alabama District Attorneys Association Secretaries Association Spring Meeting	Montgomery, Alabama
27 -Apr 1	Texas Prosecutor Council Prosecutor Investigator School	Austin, Texas

APRIL 1983

8 - 9	Arizona Prosecuting Attorneys' Advisory Council Constitutional Law	
6 - 9	PUBLIC CIVIL LAW PROBLEMS (NCDA)	RENO, NEVADA
13 - 14	Texas Prosecutor Council Offense Report Writing Workshop	Corpus Christi, Texas
13 - 15	Missouri Prosecuting Attorneys Association Statewide Training Seminar	Lake Ozark, Missouri
17 - 21	TRIAL ADVOCACY FOR PROSECUTORS (NCDA)	CHICAGO, ILLINOIS
21 (tent)	Texas Prosecutor Council Adult Sexual Assault Seminar	Fort Worth, Texas
22	New Jersey Division of Criminal Justice Forensic Science Seminar for Assistant Prosecutors	Sea Girt, New Jersey
27 - 30	OFFICE ADMINISTRATOR COURSE (NCDA)	SAN ANTONIO, TEXAS

APRIL 1983

27 - 29	Alabama District Attorney's Association Investigators Section--3rd Annual White Collar Crime Seminar	Huntsville, Alabama
28 - 29	Nebraska County Attorneys Association Spring Training Seminar	Grand Island, Nebraska
28 - 30	Louisiana District Attorneys Association Secretaries' Conference	New Orleans, Louisiana
29 - 30	Virginia Association of Commonwealths Attorneys Spring Institute	Williamsburg, Virginia
	Washington Association of Prosecuting Attorneys Traffic Program	Yakima, Washington
	New Jersey Division of Criminal Justice N.J. Idea Training	Trenton, New Jersey

MAY 1983

1 - 4	National District Attorneys Association National Legislative Conference	Washington, D.C.
13	New Jersey Division of Criminal Justice Forensic Science Seminar for Assistant Prosecutors	Sea Girt, New Jersey
13 - 14	Arizona Prosecuting Attorneys' Advisory Council Media Relations--Seminar & Workshop	
15 - 18	Michigan Prosecuting Attorneys Coordinating Council Advanced Training	Higgins Lake, Michigan
15 - 18	PROSECUTION OF THE VIOLENT JUVENILE OFFENDER (NCDA)	BOSTON, MASSACHUSETTS
17 - 18	Washington Association of Prosecuting Attorneys Support Staff Training	Yakima, Washington
19 - 20	Prosecuting Attorneys' Council of Georgia Traffic Law--DUI	
22 - 27	International Association of Arson Investigators 34th Annual Seminar	Tucson, Arizona

MAY 1983

25 - 26	Texas Prosecutor Council Offense Report Writing Workshop	
	California District Attorneys Association New Prosecutors College	Northern California

JUNE 1983

2 - 3	Alabama District Attorney's Child Support Division Summer Conference	Gulf Shores, Alabama
3 - 10	EXECUTIVE PROSECUTOR COURSE (NCDA)	HOUSTON, TEXAS
5 - 9	Iowa Prosecuting Attorneys Training Coordinator Council and Iowa County Attorneys Association Spring Training Conference	Okoboji, Iowa
10	New Jersey Division of Criminal Justice Forensic Science Seminar for Assistant Prosecutors	Sea Girt, New Jersey
15 - 18	Kansas County & District Attorneys Association Summer Seminar (with Colorado District Attorneys Council)	Vail, Colorado
19 - 23	Texas District & County Attorneys Association Basic Prosecution Course	Austin, Texas
23 - 24	Washington Association of Prosecuting Attorneys Summer Meeting	Lake Chelan, Washington
22 - 23	Texas Prosecutor Council Offense Report Writing Workshop	
23 - 26	Ohio Prosecuting Attorneys Association Summer Meeting	Huron, Ohio
	California District Attorneys Association Economic Crime Conference	

JULY 1983

8 - 22	CAREER PROSECUTOR COURSE (NCDA)	HOUSTON, TEXAS
13 - 16	Oregon District Attorneys Association Summer Conference	Sunriver, Oregon

JULY 1983

27 - 30	Michigan Prosecuting Attorneys Coordinating Council 56th Annual Conference	Mackinac Island, Michigan
28 - 29	Prosecuting Attorneys Council of Georgia Nuts and Bolts Seminar	Jekyll Island, Georgia
	Missouri Prosecuting Attorneys Association Trial Advocacy Seminar	Columbia, Missouri
	Pennsylvania District Attorneys Association Summer Meeting	

AUGUST 1983

4 - 6	Louisiana District Attorneys Association Annual Conference	Biloxi, Mississippi
4 - 7	Virginia Association of Commonwealths Attorneys Annual Meeting	Virginia Beach, Virginia
8 - 11	Office for the Study of the Psychological Rights of Children and the National Association of School Psychologists International Conference on Psychological Abuse of Children and Youth	Indianapolis, Indiana
11 - 13	Nebraska County Attorneys Association Summer Training Seminar	Fort Robinson, Nebraska
14 - 18	National District Attorneys Association Annual Conference	Nashville, Tennessee
15 - 16	Alabama District Attorneys Association Summer Conference	Gulf Shores, Alabama
22 - 29	New Jersey Division of Criminal Justice Assistant Prosecutors' Basic Course	Trenton, New Jersey
25 - 26	Prosecuting Attorneys' Council of Georgia Basic Prosecutors Seminar	

SEPTEMBER 1983

11 - 14	PROSECUTION OF THE VIOLENT JUVENILE OFFENDER (NCDA)	HOUSTON, TEXAS

SEPTEMBER 1983

26 - 30	Texas District & County Attorneys Association Annual Criminal Law Update	Fort Worth, Texas
26 - 30	Oregon District Attorneys Association Annual Institute for Prosecutors	Marylhurst, Oregon

OCTOBER 1983

17 - 18	Nebraska County Attorneys Association Annual Meeting	Omaha, Nebraska
26 - 28	Prosecuting Attorneys' Council of Georgia Annual District Attorneys' Seminar	
	PROSECUTION OF VIOLENT CRIME (NCDA)	NEW ORLEANS, LOUISIANA
	PROSECUTOR TRAINERS COURSE (NCDA)	HOUSTON, TEXAS
	PUBLIC CIVIL LAW PROBLEMS (NCDA)	WASHINGTON, D.C.

NOVEMBER 1983

2 - 4	Texas District & County Attorneys Association Key Personnel Seminar	Austin, Texas
6 - 9	Iowa Prosecuting Attorneys Training Coordinator Council and Iowa County Attorneys Association 1983 Fall Training Conference	Cedar Rapids, Iowa
13 - 15	Kansas County & District Attorneys Association Kansas Official Council	Wichita, Kansas
	INVESTIGATION AND PROSECUTION-- THE PROSECUTOR'S DUAL ROLE (NCDA)	SAN FRANCISCO, CALIFORNIA
	TRIAL ADVOCACY FOR PROSECUTORS (NCDA)	WEST PALM BEACH, FLORIDA

DECEMBER 1983

2 - 3	Washington Association of Prosecuting Attorneys Winter Meeting	Seattle, Washington
2 - 3	Prosecuting Attorneys' Council of Georgia District Attorneys Conference	

DECEMBER 1983

7-9(tent)	Oregon District Attorneys Association Winter Conference	
	PROSECUTOR'S INVESTIGATORS SCHOOL (NCDA)	HUNTSVILLE, TEXAS

JANUARY 1984

	TRIAL ADVOCACY FOR PROSECUTORS (NCDA)	COLORADO
	OFFICE ADMINISTRATOR COURSE (NCDA)	NEW ORLEANS, LOUISIANA

FEBRUARY 1984

	EXPERIENCED PROSECUTOR COURSE (NCDA)	

MARCH 1984

22 - 23	Washington Association of Prosecuting Attorneys Spring Meeting	Olympia, Washington
	APPLIED TRIAL TECHNIQUES (NCDA)	HOUSTON, TEXAS
	FORENSIC EVIDENCE (NCDA)	ORLANDO, FLORIDA

APRIL 1984

	PUBLIC CIVIL LAW PROBLEMS (NCDA)	SAN FRANCISCO, CALIFORNIA

MAY 1984

	TRIAL ADVOCACY FOR PROSECUTORS (NCDA)	BOSTON, MASSACHUSETTS
	Washington Association of Prosecuting Attorneys Support Staff Training	Yakima, Washington

JUNE 1984

8 - 15	EXECUTIVE PROSECUTOR COURSE	HOUSTON, TEXAS

JUNE 1984

10 - 14	Iowa Prosecuting Attorneys Training Coordinator Council and Iowa County Attorneys Association 1984 Spring Training Conference	Okoboji, Iowa
21 - 22	Washington Association of Prosecuting Attorneys Summer Meeting	Chelan, Washington

JULY 1984

6 - 21	CAREER PROSECUTOR COURSE (NCDA)	HOUSTON, TEXAS
11 - 14	Oregon District Attorneys Association Summer Conference	Sunriver, Oregon
26 - 27	Prosecuting Attorneys' Council of Georgia Nuts and Bolts Seminar	

AUGUST 1984

12 - 16	National District Attorneys Association Annual Conference	San Diego, California
30 - 31	Prosecuting Attorneys' Council of Georgia Basic Prosecutors Seminar	

SEPTEMBER 1984

	Oregon District Attorneys Association Annual Institute for Prosecutors	Marylhurst, Oregon

OCTOBER 1984

31 -Nov 2	Prosecuting Attorneys' Council of Georgia Annual District Attorneys Seminar	

NOVEMBER 1984

11 - 14	Iowa Prosecuting Attorneys Training Coordinator Council and Iowa County Attorneys Association - 1984 Fall Training Conference	Davenport, Iowa

NOVEMBER 1984

30 -Dec 1 Washington Association of Prosecuting Attorneys
Winter Meeting — Seattle, Washington

DECEMBER 1984

7 - 8 Prosecuting Attorneys' Council of Georgia
District Attorneys Conference

Oregon District Attorneys Association
Winter Conference

Calendar Items Should Be Sent To Director Of Training, NCDA, College of Law, University of Houston, Houston, Texas 77004

A COOPERATIVE PROJECT OF NAPC-NCDA

MISSOULA COUNTY
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MISSOULA COUNTY COURTHOUSE
MISSOULA, MONTANA 59802
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ROBERT L. DESCHAMPS III
COUNTY ATTORNEY

M E M O

TO: MONTANA COUNTY ATTORNEYS

FROM: ROBERT L. DESCHAMPS III
NATIONAL DISTRICT ATTORNEYS ASSOCIATION DIRECTOR

RE: NDAA FALL BOARD MEETING

DATE: NOVEMBER 23, 1982

At Missoula County expense I attended the National District Attorneys Association Board meeting in Monterey, California on November 11 - 14. Please accept this report on the Board actions taken at that time.

I am pleased to report that the Association is continuing to operate on a sound financial basis, ending fiscal year 1982 with a surplus of approximately $29,000.00, which has allowed some expansion in the services the Association will be providing its members. In this regard, President Flanagin has appointed me to the finance committee. Largely because of this committee's work, the Association has erased its $250,000.00 deficit of two years ago, and has established policies which should prevent such occurrences in the future.

The most lively topic discussed was whether or not the Association should pull out of the ABA. At the present time, we have one delegate, Andy Sonner, to the house of delegates, comprised of some 465 members. In addition, several prosecutors play important roles on Criminal Section Committees. Nevertheless, prosecutors are outnumbered in the Criminal Section four or five to one by defense attorneys, liberal professors, and the like. As a consequence, many, if not most of the Criminal Section positions are defense oriented. Furthermore, last summer, Dale Tooley, the Denver District Attorney, was in line and had been nominated as the president-elect of the Criminal Section. A vicious campaign was mounted against him, and a flashy defense lawyer pushed him out by packing the votes against Dale. These occurrences have left prosecutors with the belief that the ABA does not represent our interests, yet proclaims to Congress and the public that it represents the views of all attorneys, including prosecutors.

The current chairman of the Criminal Section, along with staff from that Section, addressed us, and urged that we remain active

in the ABA, and indeed, increase our involvement in the ABA, as well as state and local bars, to insure that our views are noted. He further noted that the ABA is supposed to be a broad-based organization, with middle-of-the-road views, rather than advocating either the prosecution or defense side of issues.

After much debate, it was decided that we should remain in the ABA, but voted to send a letter signed by our president, the president of the National Association of Attorney's General, and the U.S. Department of Justice, to each member of the house of delegates, pointing out the problems we are experiencing and asking for their support in the future. We also voted to attempt to schedule more of our future meetings to mesh with ABA meetings so that we can attend both. Of course, it is incumbent on all prosecutors to involve themselves in Bar activities beyond our prosecutors' organizations.

Other actions taken by the Board include the acceptance of a $40,000.00 juvenile justice training grant; the creation of a sattelite foundation known as "The American Prosecutors' Research Institute"; and the acceptance of a seat on the Advisory Council of an organization called "Laws at Work," a prosecution-oriented organization that hopes to counteract such organizations as the ACLU.

We also heard reports on our successful lobbying efforts in Congress; and the general schedules for both the upcoming Reno and Opryland conferences. Both promise to be excellent. I encourage as many of you as possible to attend them.

As a final note, I again urge those of you who are not members of this fine organization to join. The price is nominal and the benefits many.

As always, if you have any questions or comments about the NDAA, please contact me.

RLD/dm